

~~DD FORM 100-10~~
~~7-5-59~~



CENTRAL INTELLIGENCE AGENCY

WASHINGTON, D. C. 20505

OFFICE OF THE DIRECTOR

Honorable F. Edward Hebert, Chairman
Committee on Armed Services
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This is in response to your request of 8 June 1973 for our views and recommendations on H.R. 8432, "...to prohibit the Central Intelligence Agency from providing training or other assistance in support of State or local law enforcement activities."

H.R. 8432 amends the National Security Act of 1947 by adding to the first proviso in section 102 (d) (3) (50 U.S.C. 403) the underscored words:

"Provided, That the Agency shall have no police, subpoena, law-enforcement powers, or internal-security functions, and shall not provide training or any other form of assistance, directly or indirectly, in support of any law enforcement activity of any unit of State or local government."

In introducing H.R. 8432, Representative Edward Koch explained that the bill would "...establish in law the intent of the National Security Act of 1947 that the CIA be prohibited from becoming involved in internal security functions. This legislation would specifically prohibit the CIA from providing training or other assistance directly or indirectly in support of State or local law enforcement activities." (119 CONG.REC. 4399. Daily Ed. June 6, 1973.)

CRC, 3/3/2003

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In view of the apprehension raised by these activities, the Agency has adopted the policy that no such activities would be undertaken in the future except in the most compelling circumstances and then only with the Director's personal approval.

In considering the overall effect of H. R. 8432, it is important to review the meaning of the proviso in question--"Provided, That the Agency shall have no police, subpoena, law-enforcement powers, or internal-security functions."

(a) the word "powers" in the phrase "police, subpoena, law-enforcement powers" means legal ~~ability or authority~~ *to enforce compliance with its directives.* The Agency has no police, subpoena, or law-enforcement powers, has never attempted to exercise such powers, and its legal inability and lack of authority to exercise such powers is abundantly clear.

(b) the meaning of the phrase "internal-security functions" is equally clear when considered in the context of both the legislation in which it appears and the legislative history which surrounds it.

The heart of the Central Intelligence Agency section of the National Security Act of 1947 is subsection 102(d) which sets forth the duties of the Agency under the direction of the National Security Council. The proviso appears in that paragraph of that subsection which deals specifically with the correlation, evaluation, and dissemination of intelligence information.

techniques and the exercise

The legislative history of section 102 of the National Security Act reflects congressional intent that there be no confusion between the ^{necessary use} pursuit of intelligence ~~abroad and~~ police powers at home. In 1947 it was very clear that the merging of these two functions was characteristic of totalitarian states. The concern simply put was that there be no "gestapo in the United States." ~~While this country has never had a national police force, experience with the conduct of totalitarian states was uppermost in the nation's mind.~~

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In light of these concerns, a proviso was written into law ^{to add to} the assurance that the Agency would not be engaged domestically in collecting information on citizens of the United States who, unlike Agency employees and others having access to our information, are not of legitimate interest to the Agency. ~~The proviso was~~ patterned after the wording in paragraph 4 of the 22 January 1946 Presidential directive which established the Central Intelligence Group, the predecessor organization of the Central Intelligence Agency (i. e., "4. No police, law-enforcement, or internal-security functions shall be exercised under this directive.").

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It is in the light of the above that the Agency, and apparently the Comptroller General of the United States, concluded that the assistance we rendered to the New York Police Department was not violative of the referent proviso of the National Security Act of 1947.

It is noted that H. R. 8432 is concerned only with assistance to State or local government law-enforcement activities. The existing proviso in the National Security Act of 1947 is general, not limited to Federal law-enforcement activities, and is understood to apply to all levels of government. Furthermore, unless specifically authorized by Federal statute, it is understood that the Federal Government is prohibited from interfering with the prerogatives of State or local law-enforcement bodies.

In view of the above, it is our view that the intended purpose of H. R. 8432 is already served by existing law. Moreover, the language of the bill appears to extend beyond the stated purpose and could bring about results which are not intended. For example, if the Agency, as a result of its foreign intelligence efforts, acquires information bearing on a criminal act in the United States, the bill appears to prohibit the communication of

that information to appropriate State or local authorities directly by the Agency or indirectly by the Federal Bureau of Investigation, the normal recipient of such CIA information. Such information could involve illicit narcotics traffic, terrorist bombing, and similar criminal acts. ~~In addition to prohibiting the Agency or any intermediary from passing on foreign intelligence information relating to violence in this country, the bill would prohibit the Agency, directly or indirectly, from alerting local police to the possibility of a criminal act to be directed against Agency installations or its personnel. Not only would this be completely contrary to all governmental interests, but would be aiding and abetting criminal actions.~~

In addition to providing you with our substantive comments and recommendations concerning H. R. 8432, we want you to know that we are deeply concerned with an allegation in the statement introducing the legislation.

"The American public was recently shocked by disclosures that the CIA had been involved in the burglary of the office of Dr. Daniel Ellsberg's former psychiatrist. Neither Members of Congress nor officials in our judicial system are in a position at this point to determine the extent of CIA involvement in similar matters."

This serious allegation that CIA "was involved in the burglary of the office of Dr. Ellsberg's former psychiatrist, absolutely has no foundation in fact, as was testified to by Agency witnesses before the Special Subcommittee on Intelligence.

In view of the above, it is the recommendation of this Agency that H. R. 8432 not be favorably acted upon by your Committee.

The Office of Management and Budget advises there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

Enclosure

ROUTING AND RECORD SHEET

SUBJECT: (Optional)

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FROM: OLC 7D35		EXTENSION	NO. OLC 73-0686 DATE
TO: (Officer designation, room number, and building)	DATE	OFFICER'S INITIALS	COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)
	RECEIVED FORWARDED		
1. c/CI	22 JUN 1973	26 June	<p>Attached for your concurrence and/or comments is a proposed Agency position on the Koch bill which would prohibit Agency training or any other form of assistance, directly or indirectly, in support of any State or local law-enforcement activity.</p> <p>In the event the Director would want to adopt a fall-back position, then we would recommend striking from the text of the bill the underscored words: " , and shall not provide training or any other form of assistance, directly or indirectly, in support of any law enforcement activity of any unit of State or local government."</p> <p><u>1409</u> : Excellent presentation. Page 3, para 3, why "apparently" - - Can't we ask The Comptroller General? ja.</p> <p>cc: OGC, D/Sec (thru DDM&S)</p>
2.			
3. A/D250		6/26 DAB	
4. DDO	26 JUN 1973	21 July	
5.			
6.			
7.			
8.			
9. OLC 7D35			
10.			
11.	See a few scribbles - WFC		
12.			
13.			
14.		2 JUL 1973	
15.	Approved For Release 2003/05/06 : CIA-RDP75B00380R000600110003-5		

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CENTRAL INTELLIGENCE AGENCY

WASHINGTON, D.C. 20505

OFFICE OF THE DIRECTOR

21 June 1973

Honorable F. Edward Hebert, Chairman
Committee on Armed Services
House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

This is in response to your request for the views and recommendations of this Agency on H. R. 8432, "...to prohibit the Central Intelligence Agency from providing training or other assistance in support of State or local law enforcement activities."

We are formulating our position with respect to the bill and will send you our report as soon as it has been appropriately coordinated within the Executive Branch.

Sincerely,



Vernon A. Walters
Lieutenant General, USA
Deputy Director

Distribution:

Orig - Addse
1 - DDCI
1 - ER
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25X1A

14 June 1973

MEMORANDUM FOR: Legislative Counsel

Jack:

I understand you are preparing the answer for General Walters to send to Chairman Hebert on H. R. 8432, the Koch bill. I assume you will cover at the very least the following points:

a. We have already agreed to reduce any such training to a minimum and only upon the approval of the Director, and we think that is the reasonable approach.

b. We cannot live in a vacuum, and the Koch bill as stated would prevent us from supplying information we pick up in the foreign intelligence field concerning narcotics to BNDD. The bill would prohibit us from passing on even to the FBI foreign intelligence information relating to such things as bomb alerts or other violence in this country, and we could not even tell the local police in the event some criminal action was directed against our installations. The bill reduces the situation to the absurd.

c. Finally, I think we should take strong exception to Mr. Koch's comments, which indicate that somehow or other we participated in the burglary of Ellsberg's psychiatrist's office.

*Not so
applying
to state & local
police etc*

Lawrence R. Houston

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01073-0682

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U.S. House of Representatives

COMMITTEE ON ARMED SERVICES

Washington, D.C. 20515

NINETY-THIRD CONGRESS

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June 8, 1973

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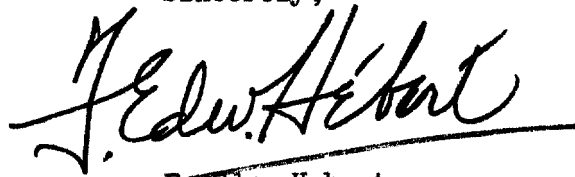
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Lt. General Vernon A. Walters
Acting Director
Central Intelligence Agency
Washington, D. C. 20505

Dear General Walters:

The views and recommendations of the Central Intelligence Agency are requested on H.R. 8432, copies of which are enclosed.

Sincerely,


F. Edw. Hebert
Chairman

Enclosures

FEH:ej

DRAFT LLM 8 June - for DD/M-S

In late 1972 there was concern, particularly in the Congress, over Agency assistance to certain local police training programs. The programs involved / the explanation of certain techniques developed by the Agency which local police departments felt had applicability to their responsibilities. At that time the Agency expressed its view that such assistance did not violate either the letter or spirit of a provision in the National Security Act of 1947:

"That the Agency shall have no police, subpoena, law-enforcement powers, or internal-security functions...."

The Chairman of the Committee in the House of Representatives to which this matter had been referred agreed with the Agency's position but recommended that certain administrative procedures set forth in other statutes be followed.

Agency employees may be interested in knowing that on 30 May 1973 the Director received a copy of a ruling by the Comptroller General of the United States, the substance of which agrees with the Agency's position that there had been no violation of the proscription in the 1947 Act and with the conclusions of the Chairman of the House Government Operations Committee that certain administrative procedures set forth in other statutes

should be followed.

In an effort to assure continued compliance with applicable law concerning the rendering of assistance by this Agency to other governmental agencies, appropriate regulations are being drawn up and will be issued shortly.

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